

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

January 14, 2004 LB 270

them for their consideration, that some aspect of law must be administered in a certain way, then I believe, and I believe others here believe, it's our duty to respond. So we're taking...we are endeavoring here to make a response to the Apprendi decision and the Ring decision, which said, if you're going to have hate crimes legislation, or legislation of this type, then the penalty, the...pardon me, the facts, the evidence, the burden of proof, and the penalty must be decided by a jury, not a judge. That's what we're about here.

SENATOR FRIEND: That helps. I mean, I guess what I'd like to point out, or...and I don't...I'm not sure if it's going to be in the form of a question. But what I'd like to point out is, it's your contention that if a person...if a senator like myself or one of the others out on the floor had an issue with the law that was created in 1997, repealing that law would be the best remedy, as opposed to approaching it from this angle. I don't necessarily, from an ideological standpoint, believe that hate crime legislation is good public policy. That notwithstanding, if I had to go out and say what the 19...what the Legislature did in 1997 was incorrect, is it your contention that we ought to roll that back, we ought to go after that original...

SENATOR CUDABACK: One minute.

SENATOR FRIEND: ...effort, instead of the approach maybe...and I'm not saying Senator Foley is wrong, but instead of the approach we're trying to take now?

SENATOR BRASHEAR: Senator Foley, I couldn't...or, Senator Friend, I couldn't have said it better myself. You said it exactly right. We adopted the law; it's not...we ought not be in the business of keeping laws broken because it satisfies our agenda, but rather, we ought to make the laws work or repeal the laws outright. I agree with you.

SENATOR FRIEND: Okay, good. Well, thanks. One more question then. Is...do we have a precedent in this body of doing things in the manner in which we're doing it right now? This is not new. I mean...and when I...and because I'm fairly fresh to the process, that's what I...I want to come up with the idea